
**COMMISSION MEETING
THURSDAY, JUNE 14, 2001
MINUTES**

Chair McLaughlin called the meeting to order at 1:30 p.m., at Maple Hall in La Conner. **Chair McLaughlin** introduced the following attendees noting that Commissioner Parker was expected to arrive later. She also pointed out that the ex officio members were not present because the special session of the Legislature was still in session.

MEMBERS PRESENT:

COMMISSIONER LIZ McLAUGHLIN, CHAIR;
COMMISSIONER CURTIS LUDWIG;
COMMISSIONER MARSHALL FORREST;
COMMISSIONER ALAN PARKER; (arrived at 1:45 p.m.)

OTHERS PRESENT:

BEN BISHOP, Director;
ED FLEISHER, Deputy Director, Policy & Government Affairs;
ROBERT BERG, Deputy Director, Operations;
CALLY CASS-HEALY, Assistant Director, Field Operations;
DERRY FRIES, Assistant Director, Licensing Operations;
AMY PATJENS, Manager, Communications & Legal Dept.;
JERRY ACKERMAN, Assistant Attorney General;
SHIRLEY CORBETT, Executive Assistant

1. REVIEW OF AGENDA:

Amy Patjens, Manager, Communications & Legal Department, noted the following changes to Thursday's agenda. Item #5, Christo's House-Banked Card Room was placed on the agenda in error and was removed. A rule up for final action relates to Electronic Facsimiles of Cards and Ms. Patjens noted an alternative rule was drafted and copies made available. The staff report scheduled for Friday by Deputy Director Berg regarding the basic law enforcement training for special agents was rescheduled to be addressed before Item 9 - Other Business on Thursday. The remainder of Friday's agenda would stand as presented.

Ms. Patjens then asked that Item L under the card room rules in the section dealing with Phase II Wagering Limits (WAC 230-40-803) be held over until the July meeting. Staff found additional language that ought to be added while the rule is on the agenda. The card room rules as well as the promotional rules are up for final action. Two rules up for discussion relate to petitions filed dealing with decreasing the fees for limited fund raising events. One was discussed last month and another similar petition was recently received. Ms. Patjens affirmed the Commissioners may either accept, file an alternative which staff will be proposing, or deny the petition.

2. NEW LICENSES, CHANGES, AND TRIBAL CERTIFICATIONS:

Commissioner Forrest made a motion seconded by **Commissioner Ludwig** to approve the new licenses, changes and tribal certifications listed on pages 1 through 20 of the agenda packet under License Approvals. *Vote taken; the motion carried with three aye votes.*

3. MANUFACTURER REVIEW:

Tech Art Manufacturing, Las Vegas, Nevada:

Monty Harmon, Program Manager, Financial Investigations Unit, reported this organization applied for a Class B manufacturing license to continue to market their MAXTime card reading device in the state of Washington. They wish to market their card reading device to the licensed card rooms and Class III facilities. The corporate headquarters is located in Las Vegas, Nevada. Tech Art was incorporated in 1992 and is an abbreviation for Technology by Artie. Arthur Miller invented the MAXTime card reading device. With the help of Howard Miller, his cousin, they incorporated Tech Art and began to sell and lease the product. They are primarily involved in leasing and selling the card reader, but recently began marketing a patented card game in a few jurisdictions. The company holds gambling licenses in several jurisdictions.

Mr. Harmon noted State and Canadian provincial jurisdictions were contacted to verify the applicant's licenses are in good standing. In addition, a selection of tribal jurisdictions were contacted and there were no problems indicated. On February 27, 2001, commission staff visited Tech Art's headquarters in Las Vegas. The agents conducted a thorough review of the company's financial records, articles of incorporation, board meeting minutes, contracts and agreements. The procedures performed included interviews of employees and an analysis of the corporate records to determine whether there were any undisclosed entities having influence over the applicant. None were noted. During staff's visit, they toured the plant facility and interviewed personnel at various levels of the organization to verify their source of operating funds, the representations that were made in the application packet, and to determine compliance with Commission rules applicable to a manufacturer in Washington State. No information was noted that would preclude the applicant from licensure in Washington. **Mr. Harmon** announced that based on the review of the application and financial documents, no items were noted that would preclude Tech Art Manufacturing from qualifying for a gambling manufacturer license in Washington State. Based on this investigation, staff recommends licensure of Tech Art Manufacturing, Inc., as a Class B Manufacturer.

Arthur Miller was introduced. **Chair McLaughlin** asked him to explain what his machine does. **Mr. Miller** explained that it lets the dealer know if he has a Blackjack without the benefit of any other information. It needs no maintenance because every year he sends the casinos a whole new product and they send him the old ones. **Commissioner Ludwig** asked if this is the little device that players slide their card into and it lights up red or green. **Mr. Miller** said his machine does not do that -- it's a prism, a machine that physically shows the dealer if he has a Blackjack. **Commissioner Ludwig** asked if the device was being used in this jurisdiction. **Mr. Miller** affirmed it is being used in the state of Nevada and many others locations where they are not required to be licensed. (Alan Parker arrived at 1:45 p.m.)

Commissioner Ludwig made a motion seconded by **Commissioner Forrest** to approve licensure of Tech Art Manufacturing, Inc., as a Class B Manufacturer. *Vote taken; motion passed with four aye votes.*

4. GROUP IV QUALIFICATION REVIEWS:

Residence East, Bellevue:

Monty Harmon, Program Manager, Financial Investigations Unit, reported this organization was formed in 1973. Their mission is to assist developmentally disabled adults with learning skills so they may enjoy independent lives. Licensed since 1994, the organization has 25 active members. A board of eight members, four of whom are officers, governs them. During the fiscal year ended June 30, 2000, the organization provided training and residential services to developmentally disabled adults through in-home support and the operation of adult group homes. The organization currently has four program sites and supports 24 individuals with full-time in-home care. In reviewing the fiscal year performance for the year ending June 30, 2000, the organization did not meet its required combined net return percentage of 5 percent under the moratorium. They had a 3.7 percent net return and did meet program service requirements, and did not have excessive reserves. At present, there are no pending administrative charges against the organization. Staff recommends that Residence East be approved as an educational organization and be authorized to conduct gambling activities in the state of Washington.

Commissioner Forrest asked if the organization would be in compliance when the new rules become effective. **Mr. Harmon** responded that the organization came under the new requirement starting in April and that agency has not yet received a quarterly activity report, so that analysis has not been performed. **Mr. Eric Portnoff**, Executive Director of Residence East was introduced and in turn he introduced Rodney Hall, the Bingo manager. **Chair McLaughlin** asked how they hoped to continue operating with a deficit of \$61,000. **Mr. Portnoff** explained they are expecting to have some significant improvements in their Bingo operation. Some of the difficulties over the last couple of years had to do with changes in the administrative staff. There have been several executive directors and several finance directors. Many of the difficulties the agency has faced had to do with an inconsistency in administration and not enough consistent management and oversight. There is a new team in place, with a new finance director and the new team is putting a lot of effort into getting control of the operations. The team anticipates significant improvements in performance. **Mr. Rodney Hall**, Bingo Manager, advised that he was looking into relocating the premises to a less Bingo-populated area because the area was being cleared for redevelopment--negotiations are underway. **Mr. Portnoff** believed that if they weren't able to turn around the performance of the Bingo business, they would close down the Bingo business within a year or so. However, the board didn't want to look at closing the operation until they could

ascertain the value of the business and whether under appropriate management by the corporate office, it could still be an asset to the organization. **Chair McLaughlin** asked if there had been a misappropriation of funds. Mr. Portnoff explained there had been poor accounting - that some of the expenses recorded were actually expenses from prior periods that hadn't been included. The new controller is going through the records and trying to make sense out of the accounting.

Commissioner Forrest noted there have been many charitable nonprofit corporations that have been providing services that in many states the state would, should, or could provide. However, because of the development in the overall gambling industry, the primary people who are suffering are those who in effect are doing the greatest service for the state. He wished Residence East well, and congratulated them on the work they do for the people who would otherwise not get the attention.

Commissioner Ludwig made a motion seconded by **Commissioner Forrest** to approve Residence East in Bellevue as a charitable organization and that they be authorized to conduct gambling activities in the state of Washington. *Vote taken; motion passed with four aye votes.*

American Veterans Post #1:

Monty Harmon, Program Manager, reported this organization was formed in 1947. Their mission is to encourage fellowship among the veterans and to keep the public forever reminded that veterans fought or served to preserve peace. Licensed since 1974, the organization has 1,664 active members. They have seven board members who conducted 12 meetings during the last fiscal year. During the year 2000, the organization provided numerous program services to 622 veterans as well as to the community. Programs included participation in the Department of Veteran Affairs Volunteer Services assisting hospitalized veterans, the Special Olympics, Americanism programs, ROTC awards, scouting, blood and organ donor programs and several others, including providing advice to veterans and their dependents.

During the fiscal year ending December 31, 2000, the organization met its combined net return percentage of 12 percent for its Class J Bingo license. They achieved a 13.6 percent net return. The organization met its program service requirements and did not have excessive reserves. At present there are no pending administrative charges against the organization. Staff recommends that American Veterans Post #1 be approved as a fraternal organization and be authorized to conduct gambling activities in the state of Washington.

Ms. Karla Johnson, bookkeeper for the organization, was introduced. **Chair McLaughlin** asked how she explained keeping income up from the previous year. **Ms. Johnson** wasn't sure because their crowds have been down. She explained the Bingo manager made some changes and lowered some of the prizes. **Commissioner Ludwig** noted they had been consistent over the last two years, so it appears their plans are working and keeping them profitable and meeting their net return requirements.

Commissioner Ludwig made a motion seconded by **Commissioner Forrest** to approve the American Veterans Post #1, located in Tacoma as a fraternal organization and that they be authorized to conduct gambling activities in the state of Washington. *Vote taken; motion passed with four aye votes.*

5. HOUSE-BANKED CARD ROOM:

Christo's, Bellingham: Removed from the agenda.

6. Phase II Review:

Freddie's Club, Fife:

Cally Cass Healy, Assistant Director, introduced Supervisory Special Agent **Sonja Dolson**, who reported that Freddie's Club is a commercial restaurant, lounge and card room owned by Lakeside Casino, LLC, owned by Eugene Mudarri with 63.25 percent of the member shares and George Downing with 36.75 percent of the member shares. The owners do not hold an interest in any other card rooms. They began conducting house-banked activities on November 16, 2000 and are currently operating 15 house-banked tables, including five Blackjack, two Spanish 21, two Fortune Pai Gow Poker, one Wild Aruba Stud, two Progressive Blackjack, one Let It Ride, and two Three-Card Poker.

Ms. Dolson reported that staff conducted a comprehensive investigation including a review and observation of key

operating departments. The review team compared actual operating procedures to those documented in the card room rules. The licensee's written internal controls were also compared to the card room rules to ensure compliance and consistency. The review of operating procedures was conducted for the five key operating departments. A review was conducted of the organization's gaming and organizational records to ensure record-keeping compliance, and that no hidden ownership or unreported third party financing existed. The city of Fife was contacted to verify the licensee is current on all gambling taxes and the Fife Police Department was contacted to verify there have been no adverse impacts on the community. All violations noted during the review were verified as corrected during the follow-up inspections and staff recommends that Freddie's Club of Fife be approved for Phase II Wagering Limits.

Mr. Eugene "Chip" Mudarri, was introduced and reported that it had been a rough road the first six months, but that he expected it to be that way. The business has been growing steadily since the beginning of the year and they are very happy with the business.

Commissioner Forrest made a motion seconded by **Commissioner Ludwig** to approve Freddie's Club of Fife to operate at Phase II wagering limits. *Vote taken; motion passed with four aye votes.*

7. Presentation of Final Agreed Order on Remand from Superior Court:

Non-Stop, Inc., d/b/a/ Non-Stop Bar & Grill, Tukwila:

Jerry Ackerman, Attorney General's Office, Counsel to the Gambling Commission, explained that his role is as a counselor to the Commission and he is not speaking for or against the Commission's taking a stand. He said Mr. Gorrell of the Attorney General's Office, who was representing staff in this matter and the counsel for Non Stop had memorialized an Agreed Order to be presented to the Commission at this meeting and that both parties are asking that the Commission enter the Agreed Order contained in the agenda packet. The packet contained Judge Cody's memorandum opinion indicating her reasons for remanding this to the Commission as well as the Order on Remand that was prepared by the parties for Judge Cody's signature. Mr. Ackerman clarified that it is not his role to speak for or against the Order. The parties are asking the Commission to consider the Agreed Order at this time. Should the Commissioners feel that the record before them is inadequate or if they have questions about the propriety or the desirability of entering this Order, then staff and the appellant in this matter would ask that it be set over to the next meeting and they would appear to present the reasons for the settlement being proposed.

Commissioner Ludwig affirmed that he read the Memorandum Opinion and Order on Remand and his interpretation is that the Agreed Order is consistent with the Opinion and Order of Remand. Commissioner Ludwig believed the Commission should enter the Agreed Order.

Commissioner Forrest commented that there was nothing in Judge Cody's opinion that gave any basis for saying the Commission had abused its discretion. Normally, there is a strong presumption that the courts will defer to the exercise of discretion by an agency. He noted that Judge Cody had no legal qualms and that she accepted all the findings. Commissioner Forrest asked Mr. Ackerman and Ms. Patjens if they knew what was going on because the letter didn't support the conclusion. **Ms. Patjens** responded that staff didn't have much more than what is in the letter, she didn't believe the judge gave too much more beyond what they had already seen, however, staff could follow up with Mr. Gorrell.

Chair McLaughlin said her understanding of the Agreed Order is that the card room license is taken but not the punch board, and pull tab license. **Mr. Ackerman** affirmed. **Director Bishop** noted this was a summary suspension and that he wasn't too sure they had been operating. **Ms. Patjens** agreed and didn't recall a Stay. Director Bishop said his understanding from a meeting, was that the Judge's point was that we couldn't take away their ability to operate punch boards and pull tabs because they weren't operating this separate license in an incorrect manner. Director Bishop noted that he personally disagrees with that opinion. However, when staff discussed this, they thought that the facts of this case might not be the best one to take forward. Staff's perspective is that if you are not qualified—there's something that taints the qualification—then that applies to all licenses. Director Bishop believed that if someone refuses to follow the rules in one area that should disqualify them from having a license in any area. He recalled that their attorney actually said there was nothing wrong with that premise. **Commissioner Forrest** agreed the Commission's premise should be just as Director Bishop stated it – if a licensee had some egregious violation, it's nonsense to think they would still be

entitled to keep running a card room. **Chair McLaughlin** asked who has the last word. Commissioner Forrest said that at the moment, the judge does. He supposed counsel was right; this particular case may not be worth it, but that it was a terrible precedent from the Commission's viewpoint and he found it hard to defend his fellow jurist's decision.

Mr. Ackerman responded to Chair McLaughlin's question, noting the matter is back before the Commission on an Order of Remand, and before the Commission to take any action they choose to take consistent with the order remanding to the Commission. Staff, through their counsel, and the appellant through their counsel, have proposed a settlement that would structure the Commission's decision in the matter, if they choose to accept it, but, the Commission could choose to impose any sanction they wished consistent with Judge Cody's opinion. That would then be subject to yet another appeal by either party if they felt aggrieved by it, and the matter theoretically could be revisited in Superior Court. **Mr. Ackerman** clarified that the Order proposed to the Commission is both sides' view of an appropriate settlement given what has taken place in Superior Court thus far. **Chair McLaughlin** asked if he agreed with Commissioner Forrest that this is a precedent-setting decision. **Mr. Ackerman** said that it was not in the strict legal sense. The decision doesn't bind the Commission in future cases; it doesn't bind any other judge in a similar case. He understands Commissioner Forrest's concern about the message some people may take from what has happened, and in that sense, there is the danger of a precedent, but it is not a legal precedent; it won't bind the Commission in the future. **Director Bishop** explained that in this case, staff thought that the facts probably weren't worth fighting. Staff got a fairly good settlement; the forfeiture of the equipment and money, the licensee agreed to not apply for a card room license, they won't have a card room problem in the future, and they have had their punch board and pull tabs shut down for a substantial amount of time. In other cases (Blackjack cases), the staff reached settlements with several of licensees very similar to this agreement. After they'd had their license suspended, they went through the facts with the attorneys, and staff agreed to give back the punch board and pull tab license if the licensee would agree to no future card room activity and forfeited all the money.

Commissioner Forrest made a motion seconded by Commissioner Ludwig to accept Counsel's recommendation and approve the Agreed Order and dispose of the case. Vote taken; motion passed with four aye votes. **Chair McLaughlin** called for a recess at 2:15 p.m. and recalled the meeting back to order at 2:30 p.m.

RULES UP FOR FINAL ACTION

8. **Electronic Facsimiles of Cards:** **WAC 230-40-010; WAC 230-40-070:**

Amy Patjens, Manager, Communications and Legal Department, explained this system is called Digideal and this is the fourth time the item has appeared on the agenda. She recalled that staff had asked that the rule be held over to this month thinking the ex officio members of the Gambling Commission would be here, but they were unable to be present due to the continuing Special Session of the Legislature. She addressed a memorandum from Deputy Director Fleisher, to the ex officio members explaining the electronic card system and the rules that are before the Commission. She noted a demonstration of this system was provided at the April meeting. Ms. Patjens briefly reviewed the rules and directed the Commissioner's attention to letters in the agenda packets from various legislators as well as the Muckleshoot Tribe.

Ms. Patjens said Item A would need an amendment if the Commission decides to allow electronic card facsimiles. Right now, all social card games are played with traditional decks of cards, which are basically paper or sometimes plastic. Item 8(b) contains most of the changes to the rule. The rule would allow the director to approve electronic card facsimiles as long as certain conditions were met, and this includes some testing by a gaming laboratory. She noted an alternative to 8(b) had been drafted and distributed. Staff added language to make it clear that the director has final authority on whether the system meets the requirements, not the gaming lab. Staff also added language that this system must be operated by card room personnel and it couldn't be manufactured for play against the device.

Ms. Patjens said the interpretation of what "play against the device" means was a significant issue in the Friendly Lawsuit litigation. Although staff does not view this system as being like the Tribal Lottery System or like a system where play against the device would be allowed (which would be illegal), staff felt that they should make this clear. Staff has received various letters, one from the Muckleshoot Tribe, and concerns have been raised about this system. Director Bishop's response is contained in the agenda packet. Staff also received three different letters from legislators. Representative Bush urged caution on this matter. He thought that it could be perceived as a creep along the path of

expanded gambling. Another letter was from Representative Conway and Representative Clements, who are the co-chairs of the Commerce and Labor Committee where gambling bills typically are heard. They were apprehensive about the adoption of these rules and requested that the Commission postpone adopting them. A letter was also received from Representative Lantz, and she also expressed some concerns about the expansion of gambling. The rules are up for final action; however, based on the request, the Commission may choose to hold it over. Ms. Patjens affirmed that whether to allow these electronic facsimiles of cards is a policy call by the Commission. **Ed Fleisher** reported that he had spoken with ex officio member Representative Alex Wood, and he had also requested that this item be held over until next month's meeting when, it is hoped, the legislative members will be able to attend and more fully understand what the issues are. **Chair McLaughlin** called for comments.

Phil Talmadge reported that he represented Digideal, a Spokane firm. He introduced Mr. Larry Martin from that firm, who was available to answer technical questions. He said Digideal appreciates the Commission's consideration of these rule changes and they have looked at the proposed change to the rule from the staff and concur with it. It simply confirms what was previously represented to the Commission about the nature of the requested change in the rules. These rules merely update the Commission's rules to reflect the reality of an electronic representation of cards. When the rules were originally written, everybody assumed that a card had to be on a piece of paper or on a piece of plastic of some sort. Now cards can come in an electronic format. He pointed out that people who play computer card games would naturally think about how cards could be produced in an electronic format -- that's all that this proposed set of rules proposes to do. Mr. Talmadge believed it was well within the regulatory power of the Commission to define cards any way the Commission chooses. He emphasized, this is not an expansion of the types of gaming. The rule changes from staff make that absolutely clear -- it's simply a mechanism for indicating that a dealer can in fact use the electronic representation of a card in lieu of a paper or plastic card. It's a cleaner game; there's no opportunity for someone to mark or tear or to somehow palm a card.

Mr. Talmadge said the opportunities for player-dealer collusion diminish with the use of the electronic dealing process and there is certainly a better record of what has transpired at the game and a greater speed of transaction at the game. The rules authorizing this form of representation for cards are neutral. This is not a set of rules designed to benefit Digideal and Digideal only. This is a neutral regulatory description of what constitutes cards under Washington's gaming laws. Digideal, like any other manufacturer proposing to offer this type of format for cards would have to prove to the satisfaction of the Commission and the staff that they comply with all of the requirements in RCW 9.46.070 that have now been formulated, including laboratory testing to demonstrate that the system is safe and secure. Mr. Talmadge urged the Commission to consider this series of rules and to adopt the changes as proposed -- they simply update us to the reality of the fact that cards can come in electronic format as well as in a plastic or paper representational format. The Commission has retained plenary authority through the staff to approve whether or not such a system is acceptable to the Commission and meets all of the stringent criteria that exist for such a system. Mr. Talmadge addressed the legislators' concerns, and affirmed there's been some suggestion that this is the nose of the camel under the flap of the tent. He believed that the Commission could rely on staff's representation that that is not the case—that in fact, it is a very stringent set of regulations and is merely a definition of what constitutes a card. It is not a new type of gaming device; it is not a new type of game; it is only a new definition of what is a card. He believed the concerns that have been expressed are apprehensions, but they're not based in the facts as the Commission understands them from the four opportunities the Commission has had to look at this system and this issue.

Commissioner Forrest said he was prepared to approve this form of card, but as a matter of courtesy and prudence to the ex officio members of the Commission and anyone else in the Legislature that's concerned, he would agree to postpone this issue for a month. He asked if Digideal would be willing to have their machine available again at the July Commission meeting and invite the members of the Legislature to watch a demonstration. Commissioner Forrest thought it would be very difficult for anyone to see this machine operate and feel it is an expansion of gambling. He hoped the Commission would share his view that as a matter of prudence and courtesy, that they ought to set this over a month. **Mr. Talmadge** said Digideal would send individual letters inviting Legislators to specifically view the machine - he believed that if they saw this machine operate, they would understand this is not a weigh station on the road to video Poker, but simply an updating of the reality of what a card is in our state.

Commissioner Ludwig agreed with Commissioner Forrest and affirmed that after seeing the demonstration, he realized this was just another way to deal the cards in Blackjack or other table game. He believed this is within the Commission's rulemaking authority. He agreed that as Mr. Talmadge has suggested, it would just be defining cards for

this purpose. Commissioner Ludwig indicated that if this was up for final action today, he would vote for it, however, as a courtesy, it would be nice to have the ex officio members present. He reiterated this is not a new game; it doesn't change the limits; it doesn't do anything in Blackjack except deal the cards out in a different method.

Commissioner Parker made a motion seconded by **Commissioner Forrest** to hold final action on the Electronic Facsimile of Cards until the July Commission meeting, out of courtesy to legislators who have voiced concerns about the impact they think approval of this system might have on gambling. **Chair McLaughlin** opened the meeting for public testimony.

Brian Cladoosby, Chairman of Swinomish Indian Tribal Community, welcomed the Commissioners and spoke on behalf of the Swinomish Tribe. He voiced his opposition to the proposed amendments to WAC 230-40-010 and WAC 230-40-070. The proposed amendments would be a substantial expansion of gaming for two reasons. First, they would dramatically expand who can operate machine gaming in Washington. Currently, as written, only governments in Washington can use Class III gambling devices. State government runs the Lottery and tribal governments run the Tribal Lottery System. The proposed amendment would allow private for profit card rooms to use for the first time what is essentially a Class III machine utilizing a random number generator. Second, the proposed amendment would expand the type of machine gaming in Washington. He explained the Tribal Lottery System is patterned after the two basic types of state lottery games—online lotto and scratch tickets. Neither of these two types of lottery games allows true video Poker or video Blackjack because neither of the lottery games allows players a choice after the random number generation to determine the game outcome. The proposed amendments would change that, and for the first time, would allow electronic gaming in which player choices are made after the random number generation to determine the outcome of the game. This raises security concerns not present with the Tribal Lottery System as it is played today. It would also lead to demands by tribes that the types of games allowed on the Tribal Lottery System be expanded. Chairman Cladoosby believed that it should be the State Legislature and the Governor to decide such a major shift in gambling policy and he urged the Commission not to adopt the proposed amendments.

John McCoy, Director of Governmental Affairs, Tulalip Tribes, said his tribe also opposes this rule change for all the reasons that Chairman Cladoosby just stated and also urged the Commission not to adopt the proposed amendments.

Douglas J. Boone, General Manager, Nisqually Red Wind Casino spoke on behalf of the Nisqually Tribe. The Tribe also opposes the Electronic Facsimile of Cards proposed in WAC 230-40-010 and WAC 230-40-070 for the exact reasons that Mr. Cladoosby spoke about. He noted the attorney representing Digideal said this is just a different type of card—that it is digital rather than in a paper and/or plastic form. The tribes are against the use of the random number generator. It's not allowed in any other type or form of gaming in the state of Washington. To use this type of facility, greatly expands gaming in the state of Washington, and the Tribe opposes it. **Chair McLaughlin** asked why this is different than a dealer dealing out the cards. Mr. Boone replied that this is different because the gaming is produced electronically and it's the use of a random number generator which is used in regular slot machines that are used in Las Vegas. It's the very thing that the state of Washington has opposed, at least in the tribal settings and it is now being introduced with this game. He believed that this is not just a card that's being displayed digitally; it's actually changing the face of gaming for the state of Washington.

Chair Ludwig thought a Blackjack dealer generates random playing cards. **Mr. Boone** affirmed the dealer does, but a computer does not. That is the technology that is behind current slot machines in other jurisdictions -- it is the use of a random number generator making those selections. Allowing a computer to make that selection has been adamantly opposed in this state.

Ray Accomando, Executive Director of the Tribal Gaming Commission for the Confederated Tribes of Chehalis, advised that he has been active in the field of tribal gaming in the state of Washington since the first tribal compact was implemented in 1992 for the Tulalip Tribe. The Chehalis Tribe also opposes the changes to WAC 230-40-010 and WAC 230-40-070 because it permits the electronic facsimile of playing cards to be used. The Tribe feels that the definition that's being presented is too vague and will expand gaming. He drew a comparison between the Digideal system of operation and the system of operation for the TLS. He addressed the player station and the type of devices that were in place and affirmed there were interactions similar to the TLS currently in place. The only difference in the game that would be allowed to use the digital representations of cards is an interaction between the dealer and the player. Several

options on the display screen are displayed to the player. Once the player initiates their involvement in the game, a sensing device activates their participation in whether or not the video display is activated. The screen will show and deal the cards to the player and it will provide opportunities to make choices. The player would then make their hand signal and the dealer would push the button on the video terminal in proxy for the player. The outcome on any of these games is going to be determined by who has the better hand, or who gets 21—the house or the player. Because this is an electronic format, there is much similarity between this game and the TLS, and the Tribe views this as an electronic means of gambling and an expansion of gambling. The determination for the payout to the customers is also being presented by proxy instead of a coin-out dispenser, it's being made by the dealer. Once the gaming round is complete, the dealer physically takes the money, will make his calculations and return money. Mr. Accomando expressed his desire to be able to do the same thing with the tribal lottery devices – that a random number generator be authorized and to eliminate game sets.

Mr. Accomando noted that under the game play standards of Digital 21, the cards are shuffled before and set in order randomly, which is basically a subset similar to the TLS, but on a smaller scale. Under the game play standards of Digital 21, playing cards are dispensed to the player LED screen, just as the tribes are dispensed to the player terminal located on a table layout directly in front of the player. The participation of the dealer in pressing the button is a proxy function of the actions a player would do at a player terminal. They're getting rid of the coin-in dispenser by having the game be activated by a sensor -- they're doing payouts manually -- they're taking the money manually. Mr. Accomando emphasized that there are so many similarities that the tribes see this as an expansion of the existing gaming. He emphasized that the tribes want the same opportunities everyone else has -- they don't want to see anyone else play on a different field than the tribes, especially in light of the litigation involved to get to this point. The Chehalis Tribe is against this amendment.

Mr. Accomando affirmed his initial observation of the intent of the electronic cards is good, and that it is probably a more secure method of dealing. There are technical concerns -- whether or not the table is a player terminal versus a standalone device. Additionally, the device is actually controlling the game, not the dealer -- all the dealer is doing is pressing a button to make a determination, it's the device that's playing the game. Chairman Accomando clarified that the tribe's objection is to the device. **Commissioner Ludwig** verified it's all right to use an electronic device to read the dealer's hand, but not to deal the cards. **Mr. Boone** responded that the tribes are not talking about the representation of the cards -- they are talking about how they are delivered -- the random number generator delivery system. He affirmed the tribes fully concede the point that the digital card would probably be safer than a paper or plastic one, but utilizing a random number generator changes the face of gaming.

Ed Fleisher, Deputy Director clarified the issue of random number generators. He said virtually every type of game that exists in the state has some element of a random number generator—that's what creates the element of chance, whether it's a Bingo blower, the shuffling of cards in a card game, or the rolling of dice in a Craps game. The issue here is an electronic version of a random number generator rather than the various types of otherwise randomly creating outcomes on games. There are many kinds of random number generators. The objection of the state when they were discussing random number generators in the context of the Chehalis litigation, and what became Appendix X, was the use of random number generators as a characteristic of a traditional slot machine where a player inserted money and a random number generator determined an outcome. There was objection to that, but to say that the state has been against random number generators is not accurate. Keno games use random number generators. They are electronic, but it's not in a slot machine or electronic gaming device environment, it's in another environment. He noted there are many kinds of devices, some of which are authorized to use electronics in the random number generation. Shufflemaster machines that shuffle cards would be another example.

Commissioner Parker affirmed that what he has heard in terms of testimony is that the objection is to an electronic random number generator, which means there's a computer chip that makes the device work. He asked if Mr. Fleisher had a comment in terms of that specific point -- is there a distinction to be made over an electronic random number generator versus any other kind of random number generator? **Mr. Fleisher** responded that there are only distinctions in the way one has to regulate them because the kinds of testing and security—the various things you want to do to be sure the game is kept honest are very different than with a deck of cards. That's more visual—it's only from a technical regulatory side that there are differences. Mr. Fleisher believed the issue that the tribes are raising is bringing electronics into the game of Blackjack. He noted the Commission has an opinion from our Attorney General on the issue and staff

does not feel that merely having electronics in the game of Blackjack would somehow also authorize standalone electronic gaming devices.

Jerry Ackerman, Assistant Attorney General, affirmed the Commission has his opinion in writing. He pointed out that it's important to remember that almost all games of chance use a random number generator of some type, be it mechanical, be it human, or in this case, if the Commission chooses to allow it, it could be electronic. The issue is, is the play directly against the random number generator? That's the vice of a slot machine. That's why slot machines are illegal in this state. He noted that when he was asked to look at the regulations that have been proposed, and the Digideal game, which the Commission saw demonstrated at the April meeting, the key was that the random number generator loaded a shoe—there was a finite number of cards, the cards were specific. The regulations contemplated one or more decks of playing cards, and that's a regulatory issue. Once the random number generator loads the shoe, those cards are in the shoe in whatever order they are in and they come out one after another just as it does in the Blackjack game that everyone is familiar with. The cards are shuffled, they're put in order in the shoe and they're dealt one at a time. The play is against the cards that are in the shoe. The random number generator doesn't spin each time the dealer pushes the button and selects a card that will come out. Those are loaded, and that is similar to what takes place in the tribal lottery machine, and it's the distinction that the parties were able to make to implement the Court's decision in Chehalis. The random number generator creates a finite set for the tribal lottery machine and the machine is then played and the numbers come out in the sequence that they were loaded into the finite set. If this had been presented to him as direct play against a random number generator, he would have reached a different decision about the Commission's legal ability to promulgate the regulations proposed. Because that is not the case, Mr. Ackerman believed the Commission has the authority to make the proposed changes to the regulations. The statute says the game is to be played with a standard deck—the statute does not impose a restriction to the type of game that is being proposed. It's very important to consider whether the game that's proposed (whether it's Digideal or some other game that may come down in the future) involves direct play against the random number generator or whether the random number generator simply performs the function of the dealer shuffling cards and loading the shoe? Mr. Ackerman believed that was the key to what's being talked about legally. The policy issues are not for him to speak to. They are legitimate concerns, but they are not legal concerns. Mr. Ackerman commented that the issue isn't a legal issue as much as it is an issue regarding the rules of the game and how the Commission wishes to see the game played.

Commissioner Parker commented that as the rules of the game were described, they seem to describe a scenario where one is playing against the machine because the machine is the one that operates the rules. **Mr. Ackerman** responded that the machine would be programmed to respond to whatever rules are created. Commissioner Parker commented that it's a very fine line, between whether you're playing against the machine or whether you're playing against the dealer. **Mr. Fleisher** thought it might help to clarify the actual rule before the Commission -- because it's different than what the machine might be able to do if it were designed in a particular way. The only rules that the Commission would be amending, if the Commission adopts these, are the rules on cards and chips for Blackjack games. The other rules are already out there--the internal controls of the casinos as well as the WAC rules, would not be changed by adoption of these rules. All those requirements would be in place -- the proposed rule before the Commission clarifies that by saying that the system be operated by card room personnel, i.e. the dealer, and shall not be designed to allow the player to play directly against the device. Without other changes—the internal controls, the other rules of Blackjack and the various requirements for wagering and so forth are not changed by this rule. The distinction is between what the rules require and what some machine might be able to do. **Chair McLaughlin** clarified that the Commission is only approving whether the Commission allows the possibility of a machine like Digideal. They are not approving Digideal. Mr. Fleisher affirmed.

Harold Chesnin, attorney for the Confederated Tribes of the Chehalis Reservation and for the Upper Skagit Indian Tribe, believed it would be important to examine what's been said and to analyze things from the perspective of a slot machine. He reminded the Commission that the Tribes participated in the Friendly Lawsuit and that the state's submissions to the Court with respect to what constituted a slot machine. The state's position has always been that slot machines are illegal in the state of Washington. Mr. Chesnin believed that if the Commission were to vote this rule change, then that would equate video Poker with a Poker dealer. In fact RCW 9.46.0240 specifically prohibits video Poker and other types of video gaming. The tribes are concerned, this is not about the cards themselves— but the representation of the cards, and that masks the ultimate issue, which is a sophisticated technological issue -- because this is a slot machine by any other name. The tribes believe that, based upon the state's prior position, that this is a standalone machine, which the state said in the Friendly Lawsuit was a slot machine. There is a single table, and

whether you have one person or six people, they are playing at a terminal. A random number generator located in the machine and the placement of the chip in the standalone generator in the terminal creates a slot machine. There was a large technological requirement of moving this chip out of the decision-making process and moving it out of what is the standalone terminal in this game. There was a question about coin in and coin out – when the player puts the coin in, it doesn't look quite the same as dropping it in the slot, but he's putting the coin in nonetheless, and the game is giving him the coin back. When you couple that with a random number generator, you move away from the traditional table game concept. The state of Washington has determined that games set by dealers are legal and games set by electronic, random numbered generators are video Poker or other video slot machines and fit the definition of a video game and, therefore, there is a distinction. The tribes did argue that there was no distinction, but we know from the federal courts and we know from the settlement that a slot machine is not permissible. Mr. Chesnin affirmed the tribes oppose the approval of the amendment.

Commissioner Ludwig said Mr. Chesnin mentioned coin in and coin out and that had nothing to do with the definition of a slot machine. **Mr. Chesnin** responded that when they negotiated the settlement, as everyone will recall, while they were talking about coin in and coin out, the tribes were ultimately required not to put coin in and coin out because that was too much like a slot machine. He suggested that if the Commission wanted to change the definition of coin in and coin out with respect to slot machines, the tribes might subscribe to that, however, at this point at least, that is against the law. Commissioner Ludwig affirmed that was a negotiation issue, but it had nothing to do with the technical judicial definition of what was prohibited. The judge didn't have anything to do with that and the Commission negotiated that for other reasons. Mr. Chesnin thanked the Commission for the opportunity to comment.

Michelle Hansen, attorney for the Suquamish Tribe, presented a letter and reported that the Suquamish Tribe, for the same reasons that the other tribes have spoken to this afternoon, also opposes the adoption of these rules. She noted that because this is a computer program, it is subject to manipulation—the outcome could be manipulated, the use of the dealer to push the buttons could be manipulated. Currently, the tribes spend a lot of money to oversee the TLS. She emphasized the state needed to recognize that the large amount of regulation and oversight would be a great deal more than the .7 FTE and the \$9,000 in equipments costs indicated -- in order to make sure the machines aren't tampered with and that the internal controls are very strong, otherwise a software program could be changed and the device could be used for something different. **Chair McLaughlin** affirmed the gaming laboratory would conduct the appropriate tests. Ms. Hansen noted there's also some concern about the fact that the tribes have in fact paid for the startup costs of that laboratory and the tribes aren't perhaps getting that benefit if in fact it's used for other devices as well. The point the Suquamish Tribe wanted to make is that this is really a Class III machine and it is the province of the State Legislature to expand gaming in the state -- not through this kind of administrative rulemaking.

Chris Kealy, Cascade Gaming, believed everyone was confusing the whole issue. He said he didn't really care about the electronic machine and he didn't think he would install one. He believed the whole direction, or misdirection, related to the random number generator. He asked the Commission to clarify that if they allowed these machines, they would allow them in the tribal casinos as well as the non-tribal casinos? **Chair McLaughlin**, **Commissioner Ludwig** and **Director Bishop** affirmed. **Kris Kealy** verified there would be no particular distinction between tribal versus non-tribal. **Chair McLaughlin** affirmed. Mr. Kealy noted if this was an expansion, it would be an expansion on both sides. **Commissioner Parker** questioned if this kind of machine does not now exist in the non-tribal casino it could be viewed as an expansion. Mr. Kealy agreed it could be viewed an expansion on both fronts and all fronts. Commissioner Parker noted that the tribes have certain advantages in terms of the types of machines and types of gaming that they engage in based on this whole legal history. Mr. Kealy believed that the tribes just didn't want to see an equal opportunity sent out at the same time. He didn't think the device would be that popular or that it would have any impact, but he didn't want to see something doused or negated when it's a safer way to regulate gaming.

Ken Hansen, Tribal Chairman, Samish Indian Nation, stated that although they are not a casino-operating tribe, they enjoy revenues through having a compact with the state of Washington and leasing permits out to other tribal casinos. He asked the Commission to set this issue aside because there needed to be more time dedicated to it. The Commission needed to hear from more experts on the random number generators. He felt any action today would be premature. He believed that if this was a slippery slope, or if this was an enhancement or an expansion of gaming, then it deserved a very careful look. No one would be hurt if it takes another month or two to come up with a sound rational decision. While the Samish Tribe opposes the approval of this machine, they would also ask the Commission to take as many months as it takes to get the answers clearly resolved with neutral educators. **Chair McLaughlin** asked if he knew of

any people. Mr. Hansen said he did and the tribes would be glad to bring them forward just as he was sure the Digideal people would be glad to bring forward a cadre of witnesses.

Larry Martin, Vice President of Digideal Corporation, Spokane, addressed the Commissioners and affirmed that he spoke with Mr. Accomando for about an hour and was apparently unsuccessful in getting him to understand what the digital card system is all about. He noted that most of the people who spoke against the changes to the amendments to the administrative code have clearly not seen a demonstration of the product. Mr. Martin felt they clearly have a tremendous misunderstanding of the random number generator and how their products work. Without going through a point-by-point description, he reiterated that the system developed and the prototype manufactured has been patented is a digital card system. It's a system in its most simple form that shuffles, deals, and displays playing cards in a digital facsimile fashion. That's what the game does—that's what the technology does. They chose Blackjack as the first game to use with that technology because it is the largest table game in the world. He affirmed that random number generators are all over the gaming world. When you play a slot machine against a random number generator, you are playing against that random number generator and it is programmed at either 85 or 90 or 95 percent—whatever the casino does in terms of payout to the customer. The random number generator in the Digideal game shuffles the cards. Once those cards are shuffled in their order, they stay in order. The random number generator does not determine the next card. No more so than the dealer does with their hands when they shuffle the cards, or no more than the Shufflemaster mechanical shuffler does.

Mr. Martin said they have brought in the experts. They started with the experts at Gaming Laboratories International in Denver, which is the gaming lab that the state of Washington uses. That was the first place they went to for the testing of their technology. To test the random number generator, Gaming Laboratories took Digital 21, put it on automatic play mode and played it nonstop 24-hours a day for two weeks. They recorded every card in memory that was played. They then printed out that memory, sent it to their office in New Jersey, and analyzed it by hand to determine that the game dealt randomly. It passed that test. It has passed similar tests in Nevada, with the South African Bureau of Standards in Johannesburg, South Africa. It has passed similar tests in Germany, Holland, California, and New Mexico. They are not worried about the random number generator passing whatever test it is put up against. Mr. Martin said that if further verification is needed, the computer used by Commission staff could go in at any time and print out every card that's been played since the last time the random number generator was started (which basically means the first time you turn the machine on). It will show how many times the Ace of Spades was played, how many times the Two of Hearts was played, the Jack of Clubs, and so on. Staff could see any game they produce and how the cards are being dealt randomly. The technology is there to do that and it's been done in gaming laboratories everywhere.

Mr. Martin explained that the technology requires a dealer. Their patent requires a dealer. Once the cards are stacked in the shoe, which has five buttons (deal, hit, stand, split, and double down), those six decks of cards are in that shoe in the exact order in which they were shuffled. The dealer simply implements the wishes of the player, no differently than if the dealer was dealing by hand. When the dealer places a bet—it is not coin in and coin out—you give the dealer a \$100 bill and he will give the player \$100 worth of chips, you then place the chips on the betting circle no differently than one would do if they were playing on a felt table with paper playing cards. Whether the dealer deals by paper and puts two cards in front of you or presses the deal button and the computer puts two cards in front of you, the cards are dealt in the order in which they are shuffled. The dealer then looks at the player and asks what the player would like to do. Based on the player's two cards, he then makes a decision and either through hand signals or verbal signals, whatever the casino rules are, the dealer then implements the player's wishes.

Mr. Martin said that one of the key elements that they present to people is that when they developed this technology and especially when they put it on Digital 21, on Blackjack, part of their objective was to keep the game as absolutely close to paper card Blackjack as possible. It is identical to the paper card Blackjack except the cards are Digital and it adds up the player's score. It is in the company's self interest to do that because Blackjack's the most popular table game in the world and they are not trying to reinvent the wheel. Mr. Martin addressed the rules and noted the game itself does not have rules; it simply has a menu of rules from which the casino management can choose for their specific house rules so the player is not playing against the rules of the game. The casino chooses what the rules are; the game simply implements them for the dealer. The dealer does not necessarily have to know the rules. The game will implement whatever the casino management puts in as the rules of the game.

Mr. Martin pointed out that most of the speakers today acknowledged the advantage of their technology in terms of

security and in terms of people not touching paper cards and the opportunity to handle paper cards and potentially fraud the player. This computer is locked, the keys are in the casino manager's office, but if anyone even opened the door and attempted to manipulate the green circuit boards, they would destroy the electronics and the game wouldn't work. In order to have any effect on the game, one would have to have the source code, they would have to be a programmer, they would have to cut new circuit boards, and then gain access to the game to replace it. He reminded the Commission that staff could go into the game and find out how many times any card has been played and see the results. Right now it's the last 10 rounds that have been played, but if Washington wants it to be the last thousand rounds that have been played they can do that. It's real easy.

Mr. Martin appreciated Commissioner Forrest's recommendation to invite the Legislators and other individuals who have expressed concerns for a demonstration. **Chair McLaughlin** pointed out that they had expected the ex officio members to be here, but could not know at that time that the Special Session would still be underway. After asking for and receiving no other public comments, **Chair McLaughlin** closed the public testimony. *Vote taken; the motion passed with four aye votes.*

9. Staff Report – BLEA / Special Agents

Robert Berg, Deputy Director, stated that prior to giving his update on this project, he wanted to report that the Commission's special agents do extremely well at the basic law enforcement academy. Two academy sessions ago, four special agents graduated. Special Agent Tawan Pratt-Wieburg of the Tribal Gaming Unit was a squad leader and initiated the class project. The basic law enforcement class must do a community service project during their academy experience, and their project was to repaint and refurbish a Kirkland pediatric urgent care clinic. The agency also had a representative in the class who was the class treasurer, Travis Watkins, who also placed second in the class academically. In the most recent graduating class a week and a half ago, Mr. Berg noted that he had the honor of presenting a certificate of basic law enforcement training to Special Agent, Jennifer DeSmith, of the Tacoma office. Ms. DeSmith came to the Commission staff after working for the CIA and then went to the Criminal Justice Training Commission's basic law enforcement academy. While she was there she finished second academically and number one overall. **Chair McLaughlin** said she thought the commissioners would appreciate a letter being sent to all of these people congratulating them. **Mr. Berg** said Director Bishop had done that on behalf of the commission.

Mr. Berg said that approximately three months ago he answered many questions about the basic law enforcement training for our special agents. The agents currently within 9-18 months of employment attend the Washington State Criminal Justice Training Commission's Basic Law Enforcement Academy. This is a 720-hour academy lasting 18 weeks, and graduates receive a certificate of basic law enforcement training. They have great portability and police departments are always trying to recruit individuals of that nature. The agency has been looking at what type of law enforcement training is really needed for the special agents in order for them to perform their job. As a result of that, staff had determined that there were some specific things they thought were important in the law enforcement training and that information was shared with the Commission in Pasco. Mr. Berg said the purpose of this presentation is to merely say that from that process, staff developed a team to work on this project. Sherri Winslow, Special Assistant to Director Bishop and former Deputy Director, is the team champion for this team. Other members include Randy Stegmeier, who is the commander of the Criminal Justice Training Commission's basic academy, Leonard Junk, supervisory special agent who is our training manager, and Jim Sawyer, who is the training manager for the Washington State Liquor Control Board, Rick Phillips, who is the director of enforcement there and Sharon Tolton, deputy director for the training commission. The first meeting was conducted last Tuesday in Tacoma. It was interesting to review what the interests are from the Training Commission's perspective, from the Liquor Board's perspective, and from the Gambling Commission's perspective. There were many, and the team is taking a look at where we are and where we want to be. The trend in other limited law enforcement agencies is to actually utilize the academy.

Mr. Berg commented that one significant piece of legislation of note, which has not had a lot of public scrutiny, was a bill that changed the commissioning authority of railroad police officers in the state of Washington from the Governor to the State Criminal Justice Training Commission. That's not necessarily a watershed event, but what it's saying that commissioning is moving towards those who train as opposed to independent authority to commission. The Department of Natural Resources is planning to send their 12 enforcement unit officers to the Criminal Justice Training Commission. The first two Liquor Control Board officers in the history of that agency just recently attended the academy and there are some competing interests in terms of what the Training Commission would like to see in terms of a regiment of training

for all law enforcement officers versus the Gambling Commission looking at what our particular needs are. The team is off and running and they have a December 31, 2001 timeframe to complete this project. It also ties in with many other initiatives, such as our FTE needs analysis, addressing what are the knowledge skills and abilities that special agents need to do their job, what kind of people do we need to have doing those jobs, and how should they be trained.

10. Other Business/General Discussion/Comments from the Public:

Chair McLaughlin called for comments from the public. There were none.

11. Executive Session to Discuss Pending Investigations, Tribal Negotiations and Litigation:

Chair McLaughlin called for an executive session at 4:00 p.m. and announced that no further business would be conducted.

12. ADJOURNMENT:

At 4:30 p.m. **Chair McLaughlin** reconvened the meeting and declared the meeting adjourned until 9.30 a.m., June 15th, 2001.

**COMMISSION MEETING
FRIDAY, JUNE 16, 2001
MINUTES**

Chair McLaughlin called the meeting to order on Friday, June 15, 2001, at 9:00 a.m., at the Maple Hall in La Conner. The following were present:

MEMBERS PRESENT:

**COMMISSIONER LIZ McLAUGHLIN, CHAIR;
COMMISSIONER GEORGE ORR;
COMMISSIONER CURTIS LUDWIG;
COMMISSIONER MARSHALL FORREST;
COMMISSIONER ALAN PARKER;**

OTHERS PRESENT:

**BEN BISHOP, Director;
ED FLEISHER, Deputy Director, Policy & Government Affairs;
CALLY CASS-HEALY, Assistant Director, Field Operations;
DERRY FRIES, Assistant Director, Licensing Operations;
AMY PATJENS, Manager, Communications & Legal Dept.;
JERRY ACKERMAN, Assistant Attorney General;
SHIRLEY CORBETT, Executive Assistant**

1. EXECUTIVE SESSION:

Chair McLaughlin announced that the commissioners would hold a one-hour executive session to discuss the executive service search. At 10:10 a.m. the public meeting was reconvened.

2. MINUTES – May 10 & 11, 2001, Gig Harbor Meeting

The minutes of the May 10 & 11, 2001, meeting were approved as presented.

Amy Patjens said Governor Locke issued a proclamation that designated next week as Problem Gambling Awareness Week. She reminded everyone that the National Conference on Problem Gambling is going to be in Seattle from the 21st through the 23rd. **Director Bishop** announced that Cindy Reed would be representing the agency at the meeting. **Chair McLaughlin** inquired if any of the Commissioners would be attending, and it was indicated that none were available.

Chair McLaughlin announced that because Commissioner Parker must leave early, she would now address the election of the Chair and Vice Chair for the 2001-2002 Commission meetings. She opened the nominations for the position of Chairman.

Commissioner Ludwig nominated **Commissioner George Orr** for the 2001-2002 Chair of the Gambling Commission. **Commissioner Ludwig** noted that Commissioner Orr has been Vice-Chair for the last year, and that he has known Mr. Orr from their days together serving in the Legislature. Commissioner Ludwig believed that Commissioner Orr would do a great job in chairing this Commission and the meetings because he is very fair and very interesting. **Chair McLaughlin** called for further nominations. There being none, she closed the nominations and called for a vote. Vote taken; the motion passed unanimously.

Chair McLaughlin called for nominations for the position of Vice Chair.

Commissioner Forrest nominated Commissioner Ludwig as 2001-2001 Vice-Chair of the Gambling Commission because Commissioner Ludwig would be excellent backup for Commissioner Orr. **Commissioner Parker** supported Commissioner Forrest's comments and affirmed the agency had some very good leadership here. **Commissioner Ludwig** responded that since he had served in the position of Chair and Vice Chair, he would prefer to see another member serve in this position. **Commissioner Forrest** and **Commissioner Parker** indicated they were not in the market. **Chair McLaughlin** called for other nominations. There being none, the nominations were closed. *Vote taken; the motion passed unanimously.*

Former Chair McLaughlin asked if Vice-Chair Ludwig would like to conduct the remainder of the meeting in the absence of the newly elected Chair, **Commissioner Orr**. **Commissioner Ludwig** deferred to **Chair McLaughlin** and she accepted.

3. STAFF REPORT – LEGISLATIVE UPDATE:

Ed Fleisher, Deputy Director, addressed materials behind Tab 4 in the agenda packets. He reported that there has been no additional formal action in the Special Session on legislation. However, a bill has been introduced that staff wanted the Commissioners to be aware of. Senate Bill 6193 was introduced by Senator Prentice and others at the request of the RGA. It's not expected that there will any formal action on this bill during the current legislative session, but Senator Prentice introduced this bill primarily to get the gaming policy in the state of Washington on the table mainly in anticipation of the hearings that the Legislature intends to hold over the summer. The bill's intent is to provide that the charities and nonprofits, along with the for profit operators, have an equal and uniform opportunity to engage in all lawful aspects of gambling equal to the tribes. The bill basically allows commercial licensees, in addition to the activities that they're already conducting, to conduct raffles, amusement games, and electronic pull tabs, which are basically the same as the existing Tribal Lottery System opportunities. It gives authority to conduct contests of chance. That is a very broad term in the statute. The bill is unclear exactly on the sponsor's intent as far as Bingo. It doesn't specifically authorize the commercials to conduct Bingo, because it authorizes them to conduct any contest of chance, Bingo would fit into that category. There are a number of details in the bill that are going to have to be clarified if it starts moving through the process. Again, the purpose of the bill is to get the major policy question of uniformity in gambling amongst the various sectors out on the table. As far as the commercial operations, the bill also removes from the statute the current requirements that the commercial licensee be primarily engaged in the sale of food and drink for on-premises consumption and the requirement that it be a commercial stimulant.

Mr. Fleisher noted that as far as social card games are concerned, the 15-table limitation in the current law is maintained, but the other games of chance such as Craps, Roulette, or Keno would be in addition to those games. On the charitable, nonprofit side, in addition to the games, again, that they are already allowed to play, charities and nonprofits would also be allowed to have the electronic pull-tab machines as well as the linked electronic Bingo machines (the Class II Bingo machines). The language in the bill is basically identical to the bill that was before the Legislature this session on the Class II Bingo machines. The three-day limitation on Bingo is removed, so Bingo operations could run seven days a week. The current limitation on charities and nonprofits that their social card games be available for members and guests only is not changed. Mr. Fleisher said that as far as other contests of chance in the bill were concerned, they would need some clarification.

Another thing the bill deals with is taxes. The local taxes on Bingo and raffles are limited to five percent of net win. Punch boards, pull-tabs, and social card games are limited to 10 percent of net win as opposed to the current 20 percent that the cities and counties can impose. The bill also adds a new state tax on the electronic pull tab machines of 10 percent of the net win on those machines, to be collected by the Department of Revenue, with an option for the local governments to impose a 5 percent tax which would be taken off the 10 percent state tax, so the total would still be 10 percent. There is also a provision in the bill to clarify the authority of local governments to zone gaming out of areas of their jurisdiction if they so choose. There were several places in the bill language requiring that the regulations of the Commission be consistent with IGRA. Although he understood the intent of what's being done, Mr. Fleisher noted that as a practical matter, that area would need some work. Trying to mix some of the requirements of IGRA don't necessarily fit in the state regulatory environment.

Commissioner Forrest asked if the Commission would be asked to supply information for a fiscal note and what the Legislature would do when they are financed largely by people the Commission regulate? **Mr. Fleisher** said that staff has not been formally asked for a fiscal note on this bill as there is probably not going to be a hearing this session. He didn't expect a formal request for one, but staff has talked to the legislative staff and Commission staff is already working on fiscal estimates for the bill. We fully expect that when the legislative hearings are held this summer, there will be a lot of questions on expected impacts. As far as the cost to the agency, Mr. Fleisher believed license fees would have to be adopted to cover the costs for regulatory and other activities, and those would be in addition to the new state tax.

Commissioner Forrest asked if staff contemplated that this would bring a substantial number of new card room/mini casinos into play. **Mr. Fleisher** said staff is still working with that. If the bill passed as written, it would be a substantial increase in gambling in the state of Washington. The house-banked card rooms in existence today would be allowed to have up to 200 of the electronic pull tab machines, in addition to the card games they have now, as well as games such as Craps, Roulette and probably Keno. That would certainly increase the opportunities, and staff would expect to see a lot of expansion there. The other area staff is looking at, is that the bill allows anyone that qualifies as a food and drink establishment to be licensed for any or all of these games. Staff expects to see what we've seen in other states -- a lot of operations where they wouldn't have the table games, they would have up to 200 machines, but there would be a lot of taverns or restaurants with a small number of the machines. Staff expects a significant increase in the number of licensees because of that, and we are looking at the number of pull tab operations we have in the state right now, as well as looking at other states that allow video machines in their taverns and restaurants. By this summer, when the Legislature holds these hearings, they're going to be real interested in the numbers. Staff will probably give them an estimated range of numbers because it's pretty hard to exactly predict the future.

Commissioner Parker said *The Olympian* ran a series on gambling in the past week and a question came out of the interviews about what the real economic impact of the expansion of gambling might be. Commissioner Parker asked if there had been any studies that analyzed the economic impact of the expansion. **Ms. Patjens** affirmed there have been a few things done. In November of 1999, the Washington Research Council did quite a study on just the impacts of the house-banked card rooms. The Office of Indian Affairs also conducted a similar study around the same time that lumped in all the contributions of the tribes. They talked about having people who are making a better wage who have been able to go out and make purchases and make some bigger contributions to the community through those purchases. Commissioner Parker said he was familiar with the study that was done on the tribes. That study is just a cash flow analysis, it doesn't really talk about the economic impact within the communities as far as the costs and the cash flow, and that was what his question was addressing—have there been studies that address the cost benefit analysis? **Mr. Fleisher** responded that he is not aware of any. He affirmed that both of the studies conducted looked more at the positive economic benefits, the jobs created, and the multiplier impact. **Director Bishop** noted the American Gaming Association also provided a report to the National Gaming Impact Commission that addressed similar positive aspects. **Commissioner Forrest** believed this was really a legislative responsibility and not a Gambling Commission responsibility. **Mr. Tull**, Attorney, indicated that he would forward staff a copy of the GAO study, which addresses some of these issues on a national level. It was published in July of last year and is a useful overview.

Mr. Fleisher indicated that Senator Prentice and her committee would very much welcome any of the Commissioners coming forward this summer to give share their thoughts on the big policy issues, not necessarily the formal position of the Gambling Commission, but as individual Commissioners with some expertise in this area. (Commissioner Parker left the meeting)

RULES UP FOR FINAL ACTION

4. Promotional Opportunities for Charitable and Nonprofit Organizations:

WAC 230-20-125; WAC 230-30-106:

Cally Cass-Healy, Assistant Director, reported that WAC 230-125, Item 4(a) has language amended to increase the number of promotional activities from 12 to 18 annually. Language was also added so that Bingo operators can now offer an unlimited number of discount coupons for their games.

WAC 230-30-106 Item 4(b) will now allow nonprofit licensees to offer happy hour pull-tab games and this is a game where prizes may be increased under certain conditions. The rule change allows all pull-tab operators, including

charitable and nonprofit organizations, to offer these games. However, nonprofit organizations will be limited to one at a time due to staff concerns about tracking proceeds. There were no questions. **Chair McLaughlin** called for discussion. There was none.

Commissioner Forrest made a motion seconded by **Commissioner Ludwig** to adopt the proposed changes to WAC 230-20-125 and WAC 230-30-106. **Chair McLaughlin** opened the issue for public testimony. There was none and the public testimony was closed. *Vote taken; the motion passed unanimously.*

Ms. Patjens noted that staff is asking the rule become effective 31-days after filing. **Commissioner Forrest and Commissioner Ludwig** concurred with the amendatory language.

5. Card Rooms :

WAC 230-08-027, 230-08-090, 230-12-072, 230-12-073, 230-40-050, 230-40-120, 230-40-500, 230-40-630, 230-40-833, 230-40-055, 230-40-610, 230-40-803, 230-40-805, 230-40-815, 230-40-820, 230-40-825, 230-40-625, 230-40-830, 230-40-840, 230-40-865, 230-40-870, 230-40-875, 230-40-885, 230-40-895 and 230-40-505:

Ms. Cass-Healy, Assistant Director, reported that staff is requesting that WAC 230-40-803 - Phase II Wagering Limits and WAC 230-40-455 on card games promotions be held over. She addressed the changes contained in Agenda Items 5(a) through 5(i) and affirmed they include housekeeping changes of one nature or another. They include reclassifications from Chapter 8 to Chapter 40, the addition of headers, correction of references and, in a couple of rules, splitting them out between nonprofit and commercial requirements.

Item 5(j) WAC 230-40-055 Card tournaments for fee and prizes.

Currently, operators may charge a player a maximum of \$50 to enter a tournament and they also offer entry into a tournament based on free tournament card play under subsection 7 as long as they do not exceed the \$50. Language was added so licensees that utilize the rake method to assess fees may qualify tournament contestants based on time played, not money spent. Also, because tournament rules are available at the establishment, it is proposed that they also not be required to be listed in the advertising. This will help reduce an operator's advertising costs and it also tends to be redundant. Since the last meeting some changes were made. In subsection 7, staff simply deleted the term "free roll" which tended to confuse the fact that what is meant was a customer appreciation tournament. In subsection 11 there is language that allows the operators to conduct tournaments identical to those previously approved without Commission staff approval. There were no questions.

Item 5(k) WAC 230-40-610 Player Supported Jackpot (PSJ).

There is a language amendment in subsection 3 to clarify that interest earned on PSJ funds is considered player money and licensees have no vested interest in them. Language was also added to clarify that licensees shall not deduct any funds in excess of 10 percent administrative fee to cover banking fees. After the April meeting, language was added to subsection 5 requiring jackpots to be paid out within 24 hours to make it more consistent with the requirements for Progressive Jackpot payouts. Additionally, the requirement that the winner initial the form has been removed from subsection 5(b)(8), which means the winner's register. Finally, under subsection 9, staff addressed a petition by Mr. Lee Taylor that was submitted last year. Staff worked with Mr. Taylor to incorporate some of his requested changes -- as a result, licensees that discontinue a PSJ, must now distribute PSJ funds back to players within 60 days in a tournament offering the same type of game under which the PSJ was established or an approved promotion. Mr. Taylor agreed the PSJ funds could be forwarded to the Council on Problem Gambling if a card room closed, as long as it was posted for licensees to see. **Commissioner Ludwig** asked if the rule provides what would be posted from the inception of a particular jackpot. **Ms. Cass-Healy** affirmed. Commissioner Ludwig advised that he was still concerned about somebody passing through some other area where there's a house-banked card room and participating or getting involved in player-supported jackpot, moving on, and then a notice goes up. He thought every player should either have actual or constructive notice. **Ms. Cass-Healy** asked if staff needed to add language into the record to address that. **Ms. Patjens** cautioned that if anything is added, we should be real clear. **Ms. Cass-Healy** advised it would fall under 9(c), under posting rules. She suggested something along the line that the licensee shall conspicuously post a sign stating how PSJ money will be distributed in the event a PSJ is discontinued or the business closes and then add a sentence that the sign must be posted from the inception of the PSJ. She asked if that would cover Commissioner Ludwig's concerns and Commissioner Ludwig affirmed.

Ms. Cass-Healy said Item 5(l) WAC 230-40-803 is the Phase II Wagering Limit Rules and staff is requesting that it be held over. Staff initially amended it to define the six months of operation for the purpose of approving licensees for Phase II limits. There have been some wordsmithing changes and then staff added language to clarify the process for bringing a Phase II request before the Commission or for declining to forward the request. Subsequently, staff experienced some confusion regarding the circumstances under which a licensee can sell all or a portion of their business or close for remodel then reopen under Phase II limits. Staff is requesting this rule be held over to consider modifications under subsection 6.

Item 5(m) WAC 230-40-805 Progressive jackpot prizes.

In subsection 2(a) language was added to state that jackpot prizes of \$5,000 or less shall be paid out immediately. For prizes over \$5,000, a minimum of \$5,000 must be paid immediately and the remaining balance paid by check within 24 hours. This month, staff added a proviso that a check shall be issued for the entire balance within 24 hours at the player's request. They may request the whole balance by check within 24 hours. In subsection 2(c), a statement was added (at some licensees' request) to clarify that seed money not initially taken from Gambling gross receipts may be removed from the jackpot fund without being recorded as gross receipts as long as it's properly recorded in the records. This voids a form of double taxation. There were no questions.

Item 5(n) WAC 230-40-815 House-banked card games.

The substantive change in this rule is an addition under subsection 5 to clarify that licensees shall inform their employees of the internal controls related to their job and ensure the internal controls are followed at all times.

Item 5(o) WAC 230-40-820 is a recommended repealer.

Both staff and the industry feel that oversight provided by the Gambling Commission is adequate and this will eliminate some redundancies in the regulation of the card rooms.

Item 5(p) WAC 230-40-825 Closed circuit television system requirements.

Surveillance requirements were placed under two different rules for Class F and house-banked card rooms for clarity. This particular rule applies to house-banked card rooms and has been totally rewritten for clarification and to gain consistency among all surveillances operated in those card rooms. It concentrates on the capabilities as opposed to specific requirements such as the number of cameras. Areas included in this rule are required: camera coverage, monitors, and recording equipment. Activities to be taped: surveillance procedures and documentation. The change made sense the last meeting. Subsection 11 was amended to clarify the procedures for dispute resolution at the request of some of the licensees. It was rather vague so they did add clarifying language. **Ms. Cass-Healy** read one additional change into the record. The second sentence of subsection 11 currently reads "in these circumstances". She proposed striking those words and adding the word "otherwise." This will clarify that the burden is indeed on the licensee to provide any action taken was warranted if there are violations of this rule. Otherwise, all disputes will be resolved in favor of the player.

Item 5(q) WAC 230-40-625 Closed circuit television system requirements for Class F card rooms.

As in WAC 230-40-825, subsection 9 in this rule was amended to clarify procedures for dispute resolution and Ms. Cally-Cass Healy again requested a change in the wording in the second sentence to strike "in these circumstance" and add "otherwise." **Ms. Cass-Healy** pointed out that in the last part of WAC 230-40-825, the last sentence in subsection 11 should read "a review by the Commission staff may be requested if the licensee feels circumstances warrant."

Item 5(r) WAC 230-40-830 Cashiers cage.

This rule allows house-banked card rooms which offer Poker games to sell a chip through an imprest window at the main cage or in another location approved by Commission staff. This simply allows the licensees to operate their Poker room in a more efficient manner while assuring accountability.

Item 5(s) WAC 230-40-840 Drop off collection method

Allows counting members to remove drop boxes from the gaming tables under the supervision of security. If the card room entrances and exits are locked. Furthermore, licensees are now allowed to store empty drop boxes on gaming tables if surveillance cameras tape the boxes and tables, when the card room was closed.

Item 5 (t) and (u) are both WAC 230-40-865 and WAC 230-40-870

These are being amended to allow a licensee's securities officers access to the fill credit machine with the sole purpose of clearing paper jams within the machine.

Item 5 (v) WAC 230-40-875 Closing gaming tables.

The change simply clarifies how a licensee handles voided closing documents.

Item 5(w) WAC 230-40-885

Ms. Cass-Healy read another change into the record regarding the introductory statement. She explained that when the two rules were separated, a typographical error occurred in the first sentence. "Card rooms that offer house-banked card games and the words (or that utilize the drop box collection method WAC 230-40-050) should be stricken. The intent was never to impose these requirements on every Class F licensee that may have one PSJ with a drop box. Subsection 8 outlines the count requirements for non house-banked card rooms. Language was added after the last meeting in 5(h) in order to provide the licensee with more flexibility in conducting their count procedures, yet still allow agency staff to be comfortable with the controls over the process. In other words they are allowing the accounting staff to record the win/loss information.

Item 5(x) WAC 230-40-895 Key control procedures.

This simply defines key lock mechanisms that can be used in the operation of house-banked card rooms and clarifies which keys each department must maintain. It was also amended to reflect the required separation between security and surveillance departments.

Item 5(y) WAC 230-40-505.

This rule was added when the house rules were split between two rules WAC 230-40-500, which is Item (g) in the housekeeping section, and WAC 230-40-505, between the nonprofit entities with card games and the commercial stimulants with card games. This rule applies to the commercial stimulants. Also the requirements for developing and posting rules of play for the two different types of card rooms are completely separate. **Chair McLaughlin** asked if there were any questions.

Commissioner Ludwig made a motion seconded by **Commissioner Forrest** that the Commission adopts the rules set out in Agenda Items 5(a) through 5(y), as amended, except for 5(l), as with an effective date 31 days after approval. **Chair McLaughlin** opened the meeting for public testimony.

Bob Tull, Attorney for the Recreational Gaming Association, advised that at the meeting in Gig Harbor, he asked Director Bishop and this Commission for the opportunity to attempt to refine some of the questions then remaining with this package. With Director Bishop's direction and with the Commission's consent, RGA staff met with Director Bishop, Mr. Berg, Mr. Fleisher, Ms. Cass-Healy and Mr. Wittmers and submitted their list of issues which gave the staff a chance to prepare and respond. The result of that meeting was an extremely thorough discussion of the issues from both sides. The result was a very comfortable feeling that there would be some re-submissions by the industry and that staff would continue to refine a few things. The general product of all those discussions is set before the Commission. Mr. Tull said that on behalf of the RGA, he endorses the recommendations that have been made by staff today with respect to the revisions. The industry thinks they are appropriate and helpful. There are still a couple of areas where the industry is still working with staff to come up with some additional ideas on how to simplify tournaments and their regulation in the future. They want to be sure that they don't move forward prematurely and overlook the input of different members. Mr. Tull affirmed the packet before the Commission has received the additional discussion, debate, and refinement that industry asked for. The industry is very appreciative of the efforts of the WSGC staff and of the time that the Commission has allowed for this. The RGA supports the package at this time and hopes the Commission will adopt them.

Commissioner Forrest congratulated staff and the industry and its representatives for being able to work a number of the details that are puzzling to the Commission at best, and sometimes almost incomprehensible.

Delores Chiechi asked what the effective date of the rules package would be if passed and was informed that it would be 31 days after approval. There was no other testimony, and the public hearing was closed. Vote taken; motion passed unanimously.

RULES UP FOR DISCUSSION

6. Card Room Promotions:

WAC 230-40-897 and 230-40-455:

Cally Cass-Healy, Assistant Director noted WAC 230-40-897 defines the requirements for house-banked card room promotions. Because of several policy issues that have come about regarding card game promotions and, in essence, all gambling activities in promotions, staff is requesting this rule be held over for further discussion. The commissioners concurred with that request.

7. Petition for Rule Change by *Richard Walker and*

8. Petition for Rule Change by *Daniel Blagovich:*

WAC 230-04-202:

Amy Patjens reminded the commissioners that last month a petition was submitted by a company named Wild Bill's which runs limited fund raising events and recreational gaming activities. They are asking that the Commission consider decreasing the fees and proposed a fee of \$50 which would be closer to what is used in Oregon. The law authorizing limited fund raising events was passed in the 2000 legislative session and allows the charitable organizations to hire equipment distributors and their employees to put on these events. They're only using scrip and then also giving away merchandise as prizes rather than cash. The petitioner is the type of provider that would have the people at the event as well as providing the equipment. Our current fee is \$339. The petitioner felt that this was too high and that may be the reason why there have been so few of these events. Staff does not support a \$50 license fee because that will not cover the licensing or regulatory costs. Additionally, with the Initiative 601 limits, if we decrease a license fee too much and find out that it's not sufficient, we are limited on how much it can be raised, and we know at the outset that the \$50 fee is not going to be sufficient. Ms. Patjens noted that Wild Bill's entertained a fee of approximately \$100. After the last meeting, Cally Cass-Healy and Derry Fries further evaluated what needed to be done on the licensing end of the application and on the regulation end. Staff came up with a \$150 license fee alternative, which comes pretty close to meeting the petitioner's request. This would decrease the fee from \$339 to \$150 for an organization's initial fee, and then adding new renewal language so that if there is an organization has already been licensed for the activity, then their fee would be reduced to \$100. Ms. Patjens explained that when staff does an initial evaluation of an organization, more staff time is required. Staff must double check that they meet the charitable organization or nonprofit requirements as well as the criteria for an organization conducting gambling activities. Simply having a 501(c)(3) designation isn't enough; staff needs to double check that there are 15 voting members and etc., so staff is recommending this alternative be discussed further.

Ms. Patjens noted that Mr. Fries also looked at the agency fees for traditional fund raising events--such as a nonprofit organization putting on a Reno Night where people can play with real money. There have been very few of these events and staff believed they could also reduce that fee when organizations are renewing a license. The initial fee needs to remain at the \$339 or \$571, depending upon how many hours the event lasts. Staff felt they could reduce the renewal fee from \$339 to \$200 for events that go up to 24 hours, and then reduce the fee from \$571 to \$350 for those organizations that are doing these fundraising events for up to 72 hours. In the past two years there have only been 10 of the traditional fundraising events and one limited fundraising events. Ms. Patjens said staff asks the Commission to consider these alternatives, but does not support the original petition proposal submitted by Wild Bill's.

Commissioner Forrest asked how this related to Agenda Item 8 and the request for change by Mr. Blagovich, or if this would deal with both issues? **Ms. Patjens** responded that is what staff would be asking for. Mr. Blagovich's operates West Coast Casino Parties, which is the same type of company as Wild Bill's. Ms. Patjens affirmed there are three options with both petitions. One would be to deny the petition, the other is to file an alternative, or the third is to initiate the rulemaking process as the rule exists. Commissioner Forrest asked if they were, in effect, saying that the Commission has dealt with this problem if the rule is adopted? Ms. Patjens affirmed, adding that if the Commission votes to file the alternative to the rule, staff would advise Mr. Blagovich that is the option the Commission chose, rather than initiating rulemaking on what Mr. Blagovich submitted. Commissioner Forrest asked what she thought the Commission ought to do. Ms. Patjens responded that staff recommends that the Commission consider the alternative instead. Staff does not support the petition from Mr. Blagovich for the same reasons that they didn't feel they could support the petition from Mr. Walker. **Commissioner Forrest** said they should just file the alternative and then dispose of both petitions. **Ms. Patjens** affirmed.

Chair McLaughlin said she understood the \$339 reflects the cost for the agency to do the job. She asked how that fee could be lowered by \$250. **Director Bishop** advised this is creating a new activity. Previously, the activity was rolled in under a regular fundraising event, which was for 24-hour periods, played with cash. What they have done now is a limited six-hour event that is under the scrip criterion. Staff changed their thinking on what this type of event was and shortened the hours considerably.

Commissioner Forrest said they have already filed the Walker petition, and by adopting the alternative, they would then also be telling Mr. Blagovich an alternative was adopted. **Mr. Ackerman** affirmed it would be a motion to file the alternative. **Chair McLaughlin** asked if the Commission already filed the rule, why can't they just amend it? **Director Bishop** believed they could do that, however this is a substantive change. Adding a new function and changing the fees on the other two functions would change the entire makeup of the fundraising event. **Director Bishop** said staff would ask that this be filed as an alternative in addition to the petition from Mr. Blagovich. **Mr. Ackerman** explained that if the Commission adopts staff's recommendation, the Commission will be filing the alternative and the alternative becomes the response to Mr. Blagovich's petition. They have three options and the Commission is selecting an option and Mr. Blagovich would be notified that in response to his petition, the Commission has chosen to file an alternative that the Commission has selected. Mr. Blagovich gets a response and this will then be on the calendar for the next meeting for further consideration. This would be a motion to adopt the alternative proposed by staff.

Commissioner Forrest made a motion seconded by **Commissioner Ludwig** that staff's prepared alternative be filed. Vote taken; the motion passed unanimously. **Chair McLaughlin** opened the meeting for public testimony for or against the alternative on the rule change.

Nick Peck, Vice President for The Friends of Fort Vancouver, a 501(c)(3) charity, noted that although they have not used any of these limited fundraising events in the past, he would submit that perhaps one of the reasons is because of what appears to be a steep cost. He urged the Commission to keep the question open for as long as possible for further examination. He submitted the thought that the tight controls the public needs to see in place for protection might be very well served by licensing the actual operator rather than a tight examination of federally-registered 501(c)(3) charities that would stand to benefit from these activities. There is the Commission's system of controls and a charity could submit its letter of determination from the IRS and its authority to operate in the state of Washington as a corporation. **Chair McLaughlin** pointed out that the Commission already licenses the person that puts on the event for the 501(c)(3). **Mr. Fries** and **Ms. Patjens** affirmed. Mr. Peck said that he hoped the Commission would simply keep the question open for further thought. While he appreciated staff's need to recover the costs of licensing, it becomes a difficult situation where such thorough diligence in investigating a 501(c)(3) charity makes it prohibitive in terms of cost for that same 501(c)(3) to even approach the Commission for a license -- especially when the Commission has very strict safeguards in place when licensing the actual operator who conducts the events. If the 501(c)(3) is conducting a raffle it is their own staff that handled the event, they are managing and staging the event. In this other circumstance, you have a professional organization that is contracted and licensed in its own right that becomes the fundraising agent for the charity and their operations are subject to the intense scrutiny that is required to protect the public.

Commissioner Forrest asked if this is an issue of whether the Commission is having a duplicative investigation that should be satisfied by their meeting IRS requirements? **Director Bishop** said the IRS requirements are just that—to gamble in Washington requires that one not only be a bona fide charitable nonprofit organization, but they must also meet other requirements such as have at least 15-members, have been organized and operating for at least 12 months. These were all safeguards that were put in the statute to prevent fly-by-nighters from and registering with the Secretary of State. The IRS quite honestly doesn't care if there is one member or 15 members. They really care about whether the organization is going to be able to avoid tax payment. Commissioner Forrest said the Commission's fee is really calculated to reimburse them for the additional costs of satisfying that the organization meets the Commission's requirements in addition to meeting the IRS requirements. **Chair McLaughlin** asked if anyone else wished to testify. There were none and the public testimony was closed. Vote taken; motion passed unanimously.

9. Other Business/General Discussion/ Comments from the Public:

Chair McLaughlin asked if there were any additional public comments. There were none.

10. Adjournment

With no further business, **Chair McLaughlin** commented that she enjoyed serving as Chair this past year. She announced that she had been reappointed by the Governor to serve for another six years on the Gambling Commission, and that she was very pleased. **Commissioner Forrest** responded that Chair McLaughlin had served a great term as Chair and **Commissioner Ludwig** agreed.

Chair McLaughlin adjourned the meeting at 11:35 a.m. and announced the next meeting would take place in Yakima on July 12th & 13th.

Minutes submitted to the Commission for approval by:

Shirley Corbett
Executive Assistant